



DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Parts 2510 and 2550

RIN 1210–AC02; ZRINs 1210-ZA32, 1210-ZA33, 1210-ZA34.

Hearing on Retirement Security Rule: Definition of an Investment Advice Fiduciary and Associated Prohibited Transaction Exemption Amendments.

AGENCY: Employee Benefits Security Administration.

ACTION: Announcement of Hearing.

SUMMARY: The Department of Labor’s Employee Benefits Security Administration (EBSA) will hold a virtual public hearing on December 12 through December 13, 2023, continuing (if necessary) on December 14, 2023, for the public to provide input on the Department’s proposed Retirement Security Rule: Definition of an Investment Advice Fiduciary, proposed amendments to Prohibited Transaction Exemption (PTE) 2020-02, proposed amendments to PTE 84-24, and proposed amendments to several other existing administrative PTEs that are available to investment advice fiduciaries. EBSA welcomes requests from the general public to testify at the hearing.

DATES: The public hearing will be held on December 12 through December 13, 2023, and will continue (if necessary) on December 14, 2023, via WebEx, beginning each day at 9 a.m. EST. Requests to testify at the hearing must be submitted on or before November 29, 2023.

ADDRESSES: Submit all requests to testify through the Federal eRulemaking Portal at <https://www.regulations.gov> at Docket ID EBSA-2023-0014. Follow the instructions for submitting requests to testify provided below. *Warning:* Do not include any personally identifiable information or confidential business information that you do not want

publicly disclosed. Requests to testify are public records posted on the internet as received and can be retrieved by most internet search engines.

FOR FURTHER INFORMATION CONTACT: Scott Ness, Office of Regulations and Interpretations, EBSA, 202-693-8510 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On November 3, 2023, the Department published in the *Federal Register* a proposed rule entitled Retirement Security Rule: Definition of an Investment Advice Fiduciary.¹ If adopted as proposed, the rule would amend the Department’s current regulation that defines who is a “fiduciary” of an employee benefit plan for purposes of Title I of the Employee Retirement Income Security Act of 1974 (ERISA) as a result of providing investment advice to a plan or its participants or beneficiaries for a fee or other compensation, direct or indirect. The proposed rule also would amend a parallel regulation defining who is a “fiduciary” of a plan described in Internal Revenue Code section 4975, including an individual retirement account, for purposes of Title II of ERISA.

In the same edition of the *Federal Register*, the Department also published proposed amendments to PTE 2020-02 (entitled “Improving Investment Advice for Workers & Retirees”), proposed amendments to PTE 84-24, and proposed amendments to several other existing administrative PTEs that are available to investment advice fiduciaries.² The full text and other information regarding the rule and PTE amendments is available on EBSA’s website: <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/erisa/retirement-security>.

¹ 88 FR 75890.

² See proposed amendment to PTE 2020-02 (88 FR 75979), proposed amendment to PTE 84-24 (88 FR 76004), and proposed amendment to PTEs 75-1, 80-83, 83-1, and 86-128 (88 FR 76032).

In the *Federal Register* documents, the Department announced that it anticipated holding a public hearing approximately 45 days following publication, and that it would publish specific information regarding the date, location, and submission of requests to testify in the *Federal Register*. The Department is hereby notifying the public that it will hold a virtual public hearing on the proposed rule and associated proposed amendments to the prohibited transaction exemptions on December 12 through December 13, 2023, continuing on December 14, 2023 (if necessary), beginning each day at 9 a.m. EST, via WebEx. Registration information to access and view the hearing on WebEx will be available within a reasonable time before the hearing on EBSA's website:

<https://www.dol.gov/agencies/ebsa>.

Instructions for Submitting Requests to Testify

Individuals and organizations interested in testifying at the public hearing must submit a written request to testify by November 29, 2023. Requests to testify must include:

- (1) the name, title, organization, address, e-mail address, and telephone number of the individual who would testify;
- (2) if applicable, the name of the organization(s) whose views would be represented; and
- (3) the date of the requester's written comment on the proposed rule or exemption proposals (if already submitted).

Any requestors with disabilities requiring special accommodations for their testimony should contact Scott Ness at the phone number listed above after submitting their written request, no later than five business days in advance of the hearing. To request ASL Interpreting or captioning services for this event, please contact Interpreting.Services@dol.gov at least five business days in advance of the hearing.

The Department will organize the hearing into several moderated panels. Presenters will be given 10 minutes to testify, and they should be prepared to answer questions regarding their testimony. EBSA may limit the number of presenters based on how many testimony requests it receives. In that event, EBSA will ensure that the broadest array of viewpoints on all aspects of the proposals are represented and will include in the public record all testimony requests it receives. EBSA encourages submission of written comments from all interested parties, regardless as to whether any entity provides oral testimony during the hearing.

EBSA will post a hearing agenda containing the panel compositions and presentation times no later than the close of business on December 7, 2023, on its website: <https://www.dol.gov/agencies/ebsa>.

Important note: In the event that a lapse in appropriations occurs, EBSA may not be able to post the hearing agenda on its website by close of business on December 7, 2023, as stated above. If the agenda is not posted by the close of business on December 7, 2023, the hearing is postponed. EBSA will publish a subsequent notice in the *Federal Register* announcing the updated date and time for the hearing within a reasonable time after any lapse in appropriations ends.

The hearing will be transcribed, and the Department will notify the public when the hearing transcript is available on EBSA's website at: <https://www.dol.gov/agencies/ebsa>.

Signed at Washington, DC, this 14th day of November, 2023.

Lisa M. Gomez,
Assistant Secretary,
Employee Benefits Security Administration,
U.S. Department of Labor.

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